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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,125	10/31/2003	Julie A. Gannon	03-364	4999
719	7590	09/27/2007		
Caterpillar Inc. Intellectual Property Dept. AB 6490 100 N.E. Adams Street PEORIA, IL 61629-6490			EXAMINER CERVETTI, DAVID GARCIA	
			ART UNIT 2136	PAPER NUMBER
			MAIL DATE 09/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)
	10/699,125	GANNON ET AL.
	Examiner David G. Cervetti	Art Unit 2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 July 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-51 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 September 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. Applicant's arguments filed July 3, 2007, have been fully considered but they are not persuasive.
2. Claims 1-51 are pending and have been examined.

Response to Amendment

3. The objection to claim 9 is withdrawn.
4. The rejection of claims 25 and 45 under 35 U.S.C. 112, second paragraph, is withdrawn.
5. While the elements must be arranged as required by the claim, this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Note that, in some circumstances, it is permissible to use multiple references in a 35 U.S.C. 102 rejection. See MPEP § 2131.01.
6. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.
7. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

8. Assuming arguendo Zhang does not teach the claimed language as claimed, Applicant has admitted that at the very least Zhang teaches the architecture to implement the claimed invention, i.e. Applicant states that Zhang only teaches sending one signal, therefore the claim is allowable. Under this hypothetical scenario, Examiner respectfully submits that adding a second, or many more enabling signals would have been obvious to someone of ordinary skill in the art.

9. Further, assuming arguendo Applicant's interpretation on Zhang is correct, the system of Zhang is capable of performing the claimed invention, then it meets the claim. See MPEP 2111.02. Examiner further points Applicant to the claims of the Zhang patent.

10. Regarding Applicant's argument that Zhang does not teach a first and a second enabling signals (claim 1), Examiner respectfully points to the fact that Zhang teaches a enabling signal (fig. 1, 42, col. 4, lines 55-67, col. 5, lines 1-45), and in response to customer representative's actions (first signal), and a second enabling signal (from server to customer facilities, fig.1, col. 5, lines 1-45). **Applicant's arguments are not persuasive.**

11. Regarding Applicant's argument that Zhang does not teach distributing at least a portion (claim 24), Examiner respectfully points to the fact that Zhang teaches granting access to multiple options resident on a remote system by enabling some of these options (col. 5, lines 45-67). **Applicant's arguments are not persuasive.**

12. Regarding Applicant's argument that Zhang does not teach identifying a failed processor ... (claim 27), Examiner respectfully points to the fact that Zhang teaches

validating a system for receiving the enabling signal and if not valid (failed validation) allowing a replacement one to receive it (col. 6, lines 1-67). **Applicant's arguments are not persuasive.**

13. Regarding Applicant's argument that Zhang does not teach disabling and establishing an entitlement... (claim 30), Examiner respectfully points to the fact that Zhang teaches validating a system for receiving the enabling signal and if not valid (failed validation) allowing a replacement one to receive it, inherently providing such feature (columns 6-7). **Applicant's arguments are not persuasive.**

14. Similar arguments apply to the remaining independent claims. **Applicant's arguments are not persuasive.**

Claim Rejections - 35 USC § 102

15. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

16. **Claims 1-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhang et al. (US Patent 6,966,000, hereinafter Zhang).**

Regarding claim 1, Zhang teaches

- a method of enabling a software option located on a remote machine (**abstract**), comprising the steps of:
 - receiving a request to enable said software option (**abstract**);
 - authorizing said enablement (**abstract**);
 - delivering a first enabling signal to an intermediary (col. 5, lines 1-45);
- and

- delivering a second enabling signal to said machine in response to said first enabling signal (**col. 5, lines 45-67**).

Regarding claim 24, Zhang teaches

- a method of enabling a software option located on a remote machine (**abstract**), comprising the steps of:
 - receiving a request to enable said software option (**abstract**);
 - authorizing said request (**abstract**);
 - delivering an enabling signal to said remote machine (**col. 5, lines 1-45**);
 - distributing at least a portion of said enabling signal to a plurality of controllers located on said remote machine (**col. 5, lines 45-67**).

Regarding claim 27, Zhang teaches

- a method of enabling a software option located on a replacement processor of a remote machine (**abstract**), comprising the steps of:
 - identifying a failed processor associated with said replacement processor (**col. 6, lines 7-40**);
 - receiving a request to enable said software option (**abstract**);
 - authorizing said request in response to said identified failed processor (**abstract**); and
 - delivering an enabling signal to said replacement processor in response to said authorization (**col. 5, lines 1-45**).

Regarding claim 30, Zhang teaches

- a method of providing an entitlement for an enabled software option located on a remote machine (**abstract**), comprising the steps of:
- receiving a request to disable said software option (**col. 6, lines 7-40**);
- disabling said software option (**col. 6, lines 7-40**);
- receiving a disabled characteristic associated with said software option (**col. 6, lines 7-40**);
- establishing an entitlement in response to said disabled characteristic (**col. 7, lines 1-47**).

Regarding claim 39, Zhang teaches

- a method of enabling a software option located on a remote machine (**abstract**), comprising the steps of:
- receiving a request to enable said software option (**abstract**);
- enabling said software option during a trial period (**col. 7, lines 20-47**);
- notifying a user with respect to an expiration of said trial period (**col. 7, lines 20-47**);
- receiving a request to enable said software option in response to said notification; authorizing said request (**col. 7, lines 20-47**);
- delivering an enabling signal to said remote machine (**col. 7, lines 20-47**).

Regarding claim 43, Zhang teaches

- a method of disabling a software option located on a remote machine (**abstract**), comprising the steps of:

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- receiving a request to disable said software option (**col. 6, lines 7-40**);
- disabling said software option (**col. 6, lines 7-40**); and
- receiving a disabled characteristic associated with said software option (**col. 7, lines 1-47**).

Regarding claim 44, Zhang teaches

- a method of enabling a software option located on a remote customer machine (**abstract**), comprising the steps of:
- receiving a request by a manufacturer from a dealer to enable said software option (**col. 7, lines 20-47**);
- authorizing said request in response to a dealer characteristic and a machine characteristic (**col. 7, lines 20-47**); and
- delivering an enabling signal to said remote machine (**col. 7, lines 20-47**).

Regarding claim 49, Zhang teaches

- a method of enabling a software option located on a remote machine (**abstract**), comprising the steps of:
- establishing a machine specific configuration (**col. 4, lines 23-57**);
- generating a request to enable said software option in response to said machine specific configuration (**col. 4, lines 23-57, col. 5, lines 45-67**);
- said request being authorized at a remote location (**col. 7, lines 20-47**);
- receiving an enabling signal at said machine in response to said authorization (**col. 7, lines 20-47**).

Regarding claim 50, Zhang teaches

- a method of enabling a software option located on a first machine (**abstract**), comprising the steps of:
 - establishing a need for said software option on said first machine (**col. 7, lines 20-47**);
 - delivering a request for said software option to a second machine (**col. 7, lines 20-47**);
 - disabling said software option on said second machine in response to said request (**col. 6, lines 7-40**);
 - generating an enabling signal in response to said disablement (**col. 4, lines 23-57, col. 5, lines 45-67**); and
 - enabling said software option on said first machine in response to said enabling signal (**col. 7, lines 20-47**).

Regarding claim 51, Zhang teaches

- a system configured to enabling a software option located on a remote machine (**abstract**), comprising:
 - a controller located on said remote machine (**col. 3, lines 40-67**),
 - said controller being configured to generate a request to enable said software option (**col. 3, lines 40-67**);
 - a remote facility configured to receive said request, authorize said request (**col. 7, lines 20-47**)and
 - generate a first enabling signal (**col. 5, lines 1-45**); and

an intermediary configured to receive said first enabling signal, authenticate said signal, and responsively deliver a second enabling signal to said machine in response to said first enabling signal (**col. 5, lines 1-45**).

Regarding claim 2, Zhang teaches wherein said intermediary authenticates said enabling signal (**col. 5, lines 1-45**).

Regarding claim 3, Zhang teaches wherein the step of delivering said second signal further comprises the step of delivering said second signal in response to said authenticating said first enabling signal (**col. 6, lines 7-40**).

Regarding claim 4, Zhang teaches establishing a machine specific configuration; and generating said software option request in response to said machine specific configuration (**col. 6, lines 7-40**).

Regarding claim 5, Zhang teaches delivering said second enabling signal to a controller located on said machine (**col. 5, lines 45-67**).

Regarding claim 6, Zhang teaches wherein said request is generated by a software program needing said software option (**abstract**).

Regarding claim 7, Zhang teaches wherein the step of delivering said second signal further comprises the step of delivering said second signal to a plurality of controllers located on said remote machine (**col. 5, lines 45-67**).

Regarding claim 8, Zhang teaches initiating a billing process in response to said authorization (**col. 8, lines 1-23**).

Regarding claim 9, Zhang teaches determining if one of an entitlement and a credit is available in response to said billing process initiation (**col. 8, lines 1-23**).

Regarding claim 10, Zhang teaches authorizing said enablement in response to an entitlement associated with said software option (**col. 8, lines 1-23**).

Regarding claim 11, Zhang teaches wherein said intermediary is a gateway network (**col. 5, lines 1-45**).

Regarding claim 12, Zhang teaches generating said request in response to a controller failing (**col. 6, lines 7-40**).

Regarding claim 13, Zhang teaches wherein said request includes a failed controller characteristic and a replacement controller characteristic (**col. 6, lines 7-40**).

Regarding claim 14, Zhang teaches wherein the step of authorizing said enablement further includes the step of authorizing said enablement for a time period (**col. 5, lines 45-67**).

Regarding claim 15, Zhang teaches wherein the step of receiving said request further comprises the step of receiving said request from a dealer associated with said machine (**col. 5, lines 45-67**).

Regarding claim 16, Zhang teaches wherein the step of authorizing said enablement further includes the step of authorizing said enablement by a manufacturer associated with said machine (**col. 6, lines 7-40**).

Regarding claim 17, Zhang teaches generating a request to enable said software option by a first machine (**col. 6, lines 7-40**).

Regarding claim 18, Zhang teaches disabling said software option on a second machine in response to said enablement authorization (**col. 8, lines 1-41**).

Regarding claim 19, Zhang teaches wherein the step of delivering said first enabling signal further comprises the step of delivering said first enabling signal in response to said disabling of said software option (**col. 8, lines 1-41**).

Regarding claim 20, Zhang teaches scheduling a delivery of said first enabling signal (**col. 7, lines 20-67**).

Regarding claim 21, Zhang teaches wherein the step of scheduling said delivery further comprises the step of scheduling said delivery in response to a priority of said request (**col. 8, lines 1-24**).

Regarding claim 22, Zhang teaches wherein the step of scheduling said delivery further comprises the step of scheduling said delivery in response to a priority of said request and a priority associated with a current use of said software option (**col. 8, lines 1-41**).

Regarding claim 23, Zhang teaches delivering a notification to said first machine, said notification including an indication of when said request may be fulfilled (**col. 5, lines 45-67**).

Regarding claim 25, Zhang teaches wherein said software option is associated with said plurality of processors (**col. 4, lines 1-35**).

Regarding claim 26, Zhang teaches wherein the step of delivering an enabling signal to said remote machine further comprises the step of delivering said enabling

signal to a primary processor, and further wherein said primary processor delivers a second enabling signal to said at least one other processor (**col. 7, lines 20-47**).

Regarding claim 28, Zhang teaches wherein said request includes at least one of a failed controller identifier and a replacement controller identifier (**col. 6, lines 7-40**).

Regarding claim 29, Zhang teaches wherein the step of authorizing said request includes the steps of: authenticating said failed controller identifier and said replacement controller identifier, and confirming the requested software option was enabled on said failed controller (**col. 5, lines 1-45, col. 6, lines 7-40**).

Regarding claim 31, Zhang teaches wherein said entitlement is associated with said disabled software option (**col. 8, lines 1-45**).

Regarding claim 32, Zhang teaches authenticating said disabled characteristic (**col. 6, lines 40-67**).

Regarding claim 33, Zhang teaches wherein the step of establishing an entitlement further comprises the step of establishing said entitlement in response to said authentication (**col. 6, lines 40-67**).

Regarding claim 34, Zhang teaches receiving a request to enable a software option on a second machine; and authorizing said request in response to said entitlement (**col. 6, lines 40-67**).

Regarding claim 35, Zhang teaches authenticating said request in response to a controller characteristic and a software option status; and generating a disable signal in response to said authentication (**col. 6, lines 40-67**).

Regarding claim 36, Zhang teaches wherein the step of disabling said software option further comprises the step of disabling said software option in response to said disable signal and a machine status (**col. 6, lines 40-67**).

Regarding claim 37, Zhang teaches wherein said machine status includes one of power up and power down (**col. 6, lines 40-67**).

Regarding claim 38, Zhang teaches wherein said machine status includes an implement status (**col. 7, lines 27-67**).

Regarding claim 40, Zhang teaches generating a disable signal in response to said trial period expiration (**col. 7, lines 20-47**).

Regarding claim 41, Zhang teaches disabling said software option in response to said disable signal and a machine status (**col. 6, lines 40-67**).

Regarding claim 42, Zhang teaches wherein said machine status includes one of power up and off (**col. 6, lines 40-67**).

Regarding claim 45, Zhang teaches wherein the step of delivering an enabling signal to said remote machine further comprises the steps of: delivering an enabling signal to said dealer in response to said authorization; and delivering said enabling signal to said remote machine in response to said dealer receipt (**col. 7, lines 20-47**).

Regarding claim 46, Zhang teaches wherein said dealer characteristic includes at least one of a service tool identifier, a service representative identifier, a dealer identifier, and a cross reference identifier of said dealer and said customer (**col. 7, lines 20-47**).

Regarding claim 47, Zhang teaches wherein said machine characteristic includes at least one of a software option identifier, a processor identifier, and a configuration identifier (**col. 7, lines 28-67**).

Regarding claim 48, Zhang teaches wherein said step of authorization further includes the step of authorizing said request in response to a machine characteristic, a dealer characteristic, and a user characteristic (**col. 7, lines 20-47**).

Conclusion

17. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **Savitzky (US Patent 6,260,076)** teaches a method for communicating with a plurality of remote machines, of a plurality of machine types, using a computer system having a memory, includes the steps of constructing within the memory a first plurality of software objects, the first plurality of software objects describing services for one of the plurality of remote machines, establishing communications with the one remote machine, and invoking operations on the one remote machine in response to requests described by services of the first plurality of software objects. **Zhang (US Patent 6,829,704)** teaches a method to enable software options is disclosed that includes receiving an electronic request for activation of an inactive option in memory of a device located remotely from a centralized facility. The method further determines whether to activate the inactive option in response to the electronic request based on whether a set of criteria has been satisfied. The criteria is defined at the centralized facility and can include a number of parameters, including a user identifier, a system identifier, a host identifier, an option identifier, modality, and a period-of-use identifier. If the set of criteria is unsatisfied, use of the inactive option is denied. If the set of criteria is satisfied, the method generates an activation key configured to permit use of the inactive option upon installation of the key in the device,

and further sends the activation key from the centralized facility to the device, wherein the activation key is automatically installed upon initialization of the device.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David G. Cervetti whose telephone number is (571)272-5861. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on (571)272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David García Cervetti/

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9,19,07